

In response to the Office Action dated September 23, 2004, the following remarks are respectfully submitted.

REMARKS

Claims Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 107 and 108 within an ex parte examination. The applicant notes that the burden is on the examiner to show specifically how DelaHuerga teaches each and every element of claims 107 and 108.

a) In examiner note #5 The examiner states that DelaHuerga 6,408, 300 column 9, lines 5-64 “teach a computer system for inputting, storing, organizing, authenticating, retrieving medical records, clinical data.....the system comprising: means for creating digital records, clinical data....” The applicant has carefully examined this DelaHuerga reference and notes that the reference describes a system of individual and personal information collection devices ICD for physicians to gather information and communicate with “smart” devices” for patient visits. The reference gives specific examples of such. The cited reference makes no reference at all, either expressly or implied, that this system has any means of **authenticating medical records, clinical data or any other data**. Further, said reference makes no reference at all, either expressly or implied, that the system is capable of **inputting and or updating** any of the medical records. Said reference only describes means for retrieving data from smart devices. In addition the reference makes to mention of allowing a plurality of users to access an ICD. DelaHuerga is clear that an ICD is only assigned to one user for that person’s single use. Therefore, this reference does not teach each and every element of the applicant’s claims 107 and 108.

The examiner cites DelaHuerga 14, 15-27 as describing a “means for assigning each of a **plurality of users**.....a **first user ID**, said first user ID being a biometric characteristic....” The applicant has carefully examined this reference and notes that DelaHuerga is describing a system in which a **single user** will be assigned some type of a **single indicia identifier** to be used one on one with a single ICD information collection device. In this entire cite reference DelaHuerga uses language that describes a **single user** and makes no reference to a plurality of users. It is clear from my claims 107 and 108 that I am describing (second element) “ means for assigning each of a **plurality of users** of the computer system a **first user ID**..... “ My second element described comparing this plurality to a **plurality of second user ID's**. Therefore, it is clear that I am intending for a plurality of users to be able to access the computer system described. DelaHuerga makes no reference at all to assigning a **plurality** of users a **first user ID** which can be compared to a plurality of **second use ID's** to authenticate a **plurality of users** of the computer system. In practical terms I am describing a computer system which is a large centralized computer system that can store medical data. MY system provided for a plurality of users to be able to access the central system and input and retrieve information in a secure manner. The plurality of users are each assigned a first user ID which can be compared to a plurality of second user ID's. DelaHuerga is describing portable and personalized information collecting devices (ICD's) which are customized to an individual physician user (like an individual Palm Computer) and which can be accessed and used only by an individual user, not a plurality of users. DelaHuerga also noted that his finger printer reader is built into the ICD which can only verify a **single user** of the personalized ICD. . Therefore, it is clear that DelaHuerga does not teach each and every element of the applicant claim 107 and therefore, the rejection of claim 107 under 35 USC 102 (e) should also be withdrawn.

b) The examiner states that the applicant's claim 108 is rejected for the same limitations as claim 107. The applicant hereby applies the same arguments to the objections of claim 108 as described in a) and b) above. Therefore, DelaHuerga does

not teach each and every element of claim 108 and, therefore the rejection of claim 108 under 35 USC 102 (e) should also be withdrawn.

Claims Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 89-106 as being unpatentable over Ross 5,823,948 in view of DelaHuerga 6,408,330 within an ex parte examination. The applicant notes that the burden is on the examiner to show specifically how claims 89-106 can be rejected by the combination of the cited patents and their specific elements.

a) References MPEP 2143-2143.03 outline decisions pertinent to the criterion for valid rejections under USC 103. These references and the patent statutes describe three basic criterion which the examiner must meet: 1) some suggestion or motivation, either in the cited references or in knowledge generally available, to modify or combine the cited references, 2) there must be a reasonable expectation of success 3) the prior art references, or the references when combined, must teach each and every of the claim limitations. The teaching or suggestion to make the cited combination and the reasonable expectation of success **MUST BOTH BE FOUND** in the prior art and not based on the applicant's disclosure.

The applicant has carefully examined both Ross 5,823,948 and DelaHuerga 6,408,330 and can find no reference at all, either expressly or implied, that either reference teaches or suggests combining the elements of both patents as cited. The applicant can also not find within the cited references any teaching or suggestion, either express or implied, that the combination of the two cited references would have a reasonable expectation of success, on either a theoretical or practical level. Therefore, the rejections of claims 89-106 under 35 USC 103 should be withdrawn.

The examiner states in his note # 9 "one of ordinary skill in the art would have been motivated to incorporate these features for the purposes of enhancing the security of

sensitive information within the system of Ross while utilizing the already integrated electronic physician signature of feature of Ross.” The examiner does not cite any paragraph, figure or reference, within Ross or DelaHuerga, that would indicate any motivation to make this combination of patents and elements. The examiner also does not cite any source or reference, which is generally available, that would indicate and motivation to make this combination of patents and elements. Therefore, a reasonable person must conclude that the patent examiner is either citing this “motivation” in an arbitrary manner or is citing this motivation based on the applicant’s disclosure. In either case the rejections of claims 89-106 under 36 USC 103 should be withdrawn.

Within the examiner’s note #9 the examiner makes no reference at all to a reasonable expectation of success, either from within the cited references or from generally available information, if one was to combine the cited patents. Therefore the rejections of claims 89-106 under 36 USC 103 should be withdrawn.

b) In the examiners note 9 the examiner admits that Ross does not teach “physician signature database having a plurality of physician names.....” The examiner cites DelaHuerga column 13 lines 4-16 as teaching “a physician signature database having a plurality of physician names and corresponding second digital physician signatures....” After careful review of this citation it is clear that DelaHuerga is describing some type of watermark which can be used to authenticate documents. Webster’s dictionary defines a watermark as “ a translucent identifying mark on a sheet of paper made during its manufacture.” It is unclear how this watermark concept as described relates at all to my claim 89. DelaHuerga makes no reference at all to my third element of “means for integrating a **first** physician signature into each said digital record.” DelaHuerga makes no reference at all to my 6th element of “a physician signature database having a plurality of physician names and corresponding second digital physician signatures stored herein.” DelaHuerga makes no reference at all to my 7th element of “ means for authenticating said digital records including means of comparing a first digital physician signature retrieved from a selected one of said digital records with a corresponding one

of said second digital physician signatures retrieved from said physician signature data based.” Since it is clear from the cited reference that DelaHuerga is not describing, either expressly or implied, a physician database of stored signatures it would be impossible to conclude that my elements 6 and 7 are at all contemplated, either expressly or implicitly, by DelaHuerga. DelaHuerga only makes a vague reference to “the watermark being examined.....” but does not in any way describe what this means or how this examination is to be accomplished. Thus for at least the above identified reasons Ross in view of DelaHuerga does not teach or suggest each and every element of claim 89 as required to support and obviousness rejection under 35 USC 103. Accordingly, the rejection of claim 89 under 35 USC 103 as being unpatentable over Ross in view of DelaHuerga should be withdrawn.

c) Claims 90-97 are being rejected under 35 USC 103(a) as being unpatentable over Ross in view of DelaHuerga. Claims 90-97 depend from claim 89. Therefore, the reasons set forth above distinguishing claim 89 over the disclosure of Ross in view of DelaHuerga apply equally here and are incorporated herein. Thus for at least the above identified reasons Ross in view of DelaHuerga does not teach or suggest each and every element of claims 90-97 as required to support as obviousness rejection under 35 USC 103. Accordingly, the rejection of claims 90-97 under 35 USC 103 as being unpatentable over Ross in view of DelaHuerga should be withdrawn.

d) Claim 98 is an independent process claim that describes the process of accomplishing the elements of claim 89. Therefore, the reasons set forth above distinguishing claim 89 over the disclosure of Ross in view of DelaHuerga apply equally here and are incorporated herein. Thus for at least the above identified reasons Ross in view of DelaHuerga does not teach or suggest each and every element of claim 98 as required to support and obviousness rejection under 35 USC 103. Accordingly, the rejection of claim 98 under 35 USC 103 as being unpatentable over Ross in view of DelaHuerga should be withdrawn.

e) Claims 99-106 are being rejected under 35 USC 103(a) as being unpatentable over Ross in view of DelaHuerga. Claims 99-106 depend from claim 98. Therefore, the reasons set forth above distinguishing claim 98 over the disclosure of Ross in view of DelaHuerga apply equally here and are incorporated herein. Thus for at least the above identified reasons Ross in view of DelaHuerga does not teach or suggest each and every element of claims 99-106 as required to support as obviousness rejection under 35 USC 103. Accordingly, the rejection of claims 99-106 under 35 USC 103 as being unpatentable over Ross in view of DelaHuerga should be withdrawn.